

## REMARKS

### 1. Preliminary Remarks

#### a. Status of the Claims

Claims 1-11 and 13-22 are pending in the application, of which claims 1-11 and 13 are under active consideration. Claims 1-4 and 7-9 are amended. Claim 12 is canceled. Claims 14-22 were previously withdrawn. Applicant respectfully requests entry of the remarks and amendments made herein into the file history of the application. Upon entry of the amendments, claims 1-11 and 13-22 will be pending, of which claims 1-11 and 13 will be under active consideration.

#### b. Claim Amendments

In order to expedite prosecution and without prejudice to seeking claims of similar scope, claims 1-4 and 7-9 are canceled, and claim 12 is canceled. Claims 1-4 and 7-9 are amended to remove unelected subject matter. Specifically, W2 and Q2-Q7 are deleted and the definition of E is narrowed to just S. Claims 1-4, 7 and 8 are further amended to remove CN as an optional  $R^1$ ,  $R^2$  and  $R^3$  group. Claim 1 was also amended to correct a typographical error and remove an incidental “the” from the definition of  $R_A^3$ . Support for these amendments can be found throughout the specification and claims as originally filed. No new matter is added through these amendments.

#### c. Objection to the Claims

On page 3 of the Office Action, the Examiner objects to claims 1-11 and 13 as allegedly containing non-elected subject matter. In view of the foregoing amendment, Applicant submits that the claims do not contain non-elected subject matter. Specifically, W2 and Q2-Q7 are deleted and the definition of E is narrowed to just S, leaving only products where W is W1 and Q is thiazolyl. In view of the foregoing, Applicant respectfully submits that the Examiner’s objection is overcome and requests withdrawal of the same.

### 2. Patentability Remarks

#### a. 35 U.S.C. § 102(b), Anticipation

On page 4 of the Office Action, the Examiner rejects claims 1-11 and 13 under 35 U.S.C. § 102(b) as allegedly being anticipated by Hogberg et al., *Bioorg. Med. Chem. Lett.*, 10(3), 265-268 (2000) (“Hogberg”). Specifically, the Examiner alleges that Hogberg discloses the claimed compounds of instant formula I wherein Q is thiazolyl,  $R^4$ ,  $R^5$ ,  $R^1$  and  $R^2$  are hydrogen,  $R^3$  is CN, Z is  $-CH_2CH_2-$ , and W is W1 where A is  $-OMe$  and B and  $R_W^1$  are hydrogen and pharmaceutical

compositions thereof. The Examiner notes Compound 4 of Table 1 on page 266 of Hogberg. In view of the foregoing amendment, Applicant respectfully submits the rejection is overcome.

In particular, amended claims 1-4, 7 and 8 relate to a compound of formula (I) where  $R^3$  cannot be CN. Claims 5, 6, 9-11 and 13 depend from amended claim 1 and therefore also relate to a compound of formula (I) where  $R^3$  cannot be CN. In contrast, Hogberg discloses only compounds where the equivalent to  $R^3$  is CN. Hogberg does not teach any alternative at the equivalent of  $R^3$ . Accordingly, Hogberg does not disclose all of the limitations of the instantly claimed compound and therefore cannot anticipate the instant claims. In view of the foregoing, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 1-11 and 13 under 35 U.S.C. § 102(b) over Hogberg.

### 3. Conclusion

Applicant respectfully submits that the instant application is in good and proper order for allowance and early notification to this effect is solicited. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the instant application, the Examiner is encouraged to call the undersigned at the number listed below.

Respectfully submitted,

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Dated: December 27, 2011

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